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Election/Restrictions

Restriction between groups I and II-V is withdrawn in view of claim 103 being allowed. Election of species is also withdrawn. Restriction between groups II and VI is maintained (see interview summary form dated 7/14/10).

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Deborah Herzfeld on 9/29/10.

The application has been amended as follows:

Cancel claims 156.

The following is an examiner's statement of reasons for allowance: In view of certified English translation of French Patent Application No. 02 11096, filed September 6, 2002; French Patent Application No. 02 11907, filed September 6, 2002; and French Patent Application No. 02 1104, filed September 6, 2002 , co-pending applications 10/526,674 and 10/526,675 are no longer prior art. Co-pending application 10/526,674 has been abandoned. Written description dated 8/18/2009 is withdrawn since composition claims are cancelled and the method of use claim is limited to formula I drawn to tacky wax. The process claims are unobvious over the combination of patents 5,985,298 and 5,783,176 since the patents do not disclose or fairly suggest the claimed non-therapeutic process for obtaining a uniform and/or smooth and/or

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separating makeup result on keratin fibers eyelashes comprising applying to the eyelashes a composition comprising, in a cosmetically acceptable medium, at least one wax having a tack of greater than or equal to 0.7 N.s and a hardness of less than or equal to 3.5 MPa, and wherein the at least one wax is a compound of formula (I).

In view of terminal disclaimer, submitted over co-pending applications 10/656201 and 11/056239, there is no obviousness-type double patenting rejection. In view of terminal disclaimer submitted over 10/654907 dated 9/29/08, there is no obviousness-type double patenting rejection.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EYLER YVONNE (BONNIE) can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /
Primary Examiner, Art Unit 1619